IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 4742 of 2005

Between:

George Coronation Elementary School, Machilipatnam rep., by its Secretary and Correspondent.

..... PETITIONER

AND

1 State of Andhra Pradesh rep., by its Secretary to Government, School Education Department, Secretariat, Hyderabad.
2 The Commissioner and Director of School Education, Andhra Pradesh, Hyderabad.
3 The District Educational Officer, Machilipatnam, Krishna District.
4 The Deputy Educational Officer, Machilipatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction more particularly one in the nature of writ of mandamus declaring as illegal, arbitrary and in violation of law the proceeding Rc.No.83/D6/2003 dated 24-02-2005 issued by the 3rd respondent and the Government Memo No.12080/C&D.S.E./A.2/04-4 Edn., dated 20-10-2004 has no application to the instant recruitment and issue a consequential directions to the respondents to allow the petitioner to fill up two posts of Secondary Grade Teachers.

Counsel for the Petitioner :MR.D.V.SITARAMAMURTHY

Counsel for the Respondent Nos.1 to 4 : GP FOR EDUCATION

The Court, at the stage of admission, made the following :

ORDER:

The petitioner is a private aided Elementary School in Machilipatnam, Krishna district. Certain vacancies are said to have arisen, on account of retirement and transfer of the incumbents in the aided posts. It is stated that the Government accorded permission, to fill up the vacancies, but further steps were prevented on account of a ban imposed by the Government, through its proceedings, dated 20.10.2004. The petitioner contends that since the ban came to be imposed subsequent to the grant of permission, it cannot be prevented from proceeding with the selection and appointment of the posts.

Heard the learned counsel for the petitioner and the learned Government Pleader for School Education.

Under the relevant provisions of the A.P. Education Act, 1982 and the Rules made thereunder, permission of the Government is necessary to fill up the posts in the aided institutions. The petitioner applied to the authorities concerned, seeking permission to fill the existing vacancies in the aided posts. On verification of the matter, the permission was accorded on 23.10.2002 for one post and thereafter, to another post. The further steps need to be taken in accordance with the procedure prescribed by the Government, namely publication of advertisement, constitution of Selection Committee etc. Before such steps were taken, the Government imposed ban on filling up of aided vacancies, through its order, dated 20.10.2004. The question as to whether the ban so imposed would prevent the institutions from filling the vacancies, for which permission was already accorded, was considered by this Court in W.P.No.24559 of 2004. It was held that the ban imposed by the Government does not have any effect on the permissions, which are already granted before 24.10.2004.

Following the same, the writ petition is disposed of, leaving it open to the petitioner to fill the vacancies, on the basis of the permission accorded to it before 24.10.2004, duly following the relevant procedure. There shall be no order as to costs.

11.03.2005

Note: Office to furnish copy

In three days.

(B/o.)

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To

1 The Secretary to Government, School Education Department, State of Andhra Pradesh, Secretariat, Hyderabad.
2 The Commissioner and Director of School Education, Andhra Pradesh, Hyderabad.
3 The District Educational Officer, Machilipatnam, Krishna District.
4 The Deputy Educational Officer, Machilipatnam.

5 2 C.Cs. to the Government Pleader for Education, High Court of A.P., Hyderabad. (O.U.T.)

6 2 CD copies